

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
LUBBOCK DIVISION

STATE OF TEXAS, et al.	§	
	§	
Plaintiffs,	§	
	§	
v.	§	No. 5:23-CV-304-H
	§	
UNITED STATES DEPARTMENT	§	
OF TRANSPORTATION, et al.	§	
	§	
Defendants.	§	

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**AMERICAN ROAD AND TRANSPORTATION BUILDERS  
ASSOCIATION AND ASSOCIATED GENERAL CONTRACTORS OF  
AMERICA, INC.’S UNOPPOSED MOTION FOR LEAVE TO FILE BRIEF  
OF *AMICI CURIAE* IN SUPPORT OF THE PLAINTIFFS’ MOTION FOR  
SUMMARY JUDGMENT**

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The American Road and Transportation Builders Association and Associated General Contractors of America, Inc. seek leave to file a Brief of *Amici Curiae* in Support of the Plaintiffs’ Motion for Summary Judgment, which is attached to this Motion as Exhibit A. No party opposes this Motion. No counsel for a party authored the brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of the brief.

The American Road and Transportation Builders Association (“ARTBA”) is made up of more than 8,000 member organizations in the transportation construction industry, including construction contractors, professional engineering firms, public

agencies, federal, state, and local transportation administrators, heavy equipment manufacturers, and materials suppliers. The transportation construction industry generates more than \$500 billion annually in U.S. economic activity. ARTBA's members are responsible for design and construction of vital public infrastructure projects such as highways, bridges, airports, railroads, and mass transit facilities, for which the Infrastructure Investment and Jobs Act is providing substantial investment. Additionally, ARTBA's membership includes state and local transportation agencies directly responsible for planning and funding highway projects. As such, ARTBA's members are directly impacted by emissions performance measures in the Emissions Rule.<sup>1</sup>

The Associated General Contractors of America, Inc. ("AGC of America") is a nationwide trade association of construction companies and related firms. AGC of America has more than 27,000 members, including more than 6,500 general contractors, over 9,000 specialty contractors, and many service and supply firms. AGC of America has 89 chapters, with at least one chapter serving each and every state, Puerto Rico, and Washington, D.C. AGC of America contractor members regularly bid for contracts with and perform work for state departments of

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<sup>1</sup> *National Performance Management Measures; Assessing Performance of the National Highway System, Greenhouse Gas Emissions Measure*, 88 Fed. Reg. 85364 (Dec. 7, 2023).

transportation to build roads, highways, and bridges, among other forms of infrastructure.

*Amici* and their members have a direct and substantial interest in this case. The Emissions Rule imposes executive branch priorities in place of the carefully crafted, bipartisan legislative provisions that *amici* supported. It also threatens transportation improvements by imposing unplanned administrative costs on many state transportation agencies. *Amici* support the full spectrum of the Plaintiffs' arguments, but they will focus their efforts here on the relevant statutes and their legislative history and context.

For these reasons, ARTBA and AGC of America request that the Court grant this Motion and deem the attached brief filed.

Respectfully submitted,

BAKER BOTTS L.L.P.

By: /s/ Matthew G. Sheridan  
Megan H. Berge (*pro hac vice pending*)  
State Bar No. 983714  
700 K Street, N.W.  
Washington, DC 20001-5692  
(202) 639-1308  
(202) 639-1171 – Fax  
megan.berge@bakerbotts.com

J. Mark Little (*admission pending*)  
State Bar No. 24078869  
Matthew G. Sheridan  
State Bar No. 24088404  
910 Louisiana Street  
Houston, Texas 77002  
(713) 229-1489  
(713) 229-2789 - Fax  
mark.little@bakerbotts.com  
matthew.sheridan@bakerbotts.com

ATTORNEYS FOR *AMICI CURIAE* AMERICAN  
ROAD AND TRANSPORTATION BUILDERS  
ASSOCIATION AND ASSOCIATED GENERAL  
CONTRACTORS OF AMERICA, INC.

**CERTIFICATE OF CONFERENCE**

I hereby certify that on February 14, 2024 and February 15, 2024, I conferred with counsel for both the plaintiffs and the defendants regarding the relief sought in this motion. Counsel for the defendants indicated that they take no position on the relief sought in this motion. Counsel for the plaintiffs indicated that they do not oppose the relief sought in this motion.

/s/ J. Mark Little

J. Mark Little

**CERTIFICATE OF SERVICE**

I hereby certify that on February 16, 2024, a true and correct copy of the foregoing was served on all counsel of record through the CM/ECF system.

/s/ Matthew G. Sheridan

Matthew G. Sheridan